

INTERLOCAL COOPERATION AGREEMENT BETWEEN  
THE CITY OF DURHAM  
AND THE COUNTY OF DURHAM  
FOR THE PROVISION OF INSPECTIONS SERVICES

This is an Interlocal Cooperation Agreement (hereafter “Agreement”) between the City of Durham, a North Carolina municipal corporation (hereafter, “the City”), and the County of Durham, a political subdivision of the State of North Carolina (hereafter, “the County”). This Agreement is made pursuant to Article 18 section 153A-353 and Article 20, Chapter 160A of the North Carolina General Statutes.

The City of Durham and County of Durham agree as follows:

**Section I. Purpose.**

The City and the County find that interlocal cooperation for providing comprehensive building inspection services is a public necessity; that such cooperation will provide for (i) increased uniformity in enforcement of the North Carolina State Building Code, (ii) development of consistent goals and objectives and (iii) more efficient coordination, administration and delivery of inspection services; and, that as a result the public health, safety and welfare will be better served by the implementation of this Agreement.

**Section II. Definitions.**

The words defined in this Section shall have the meanings indicated when used in this Agreement:

- A. “Annual Budget” means the listing of anticipated annual revenues and expenditures of the City-County Inspections Department, submitted to and approved by the City and County pursuant to Section V of this Agreement.
- B. “Applicable Codes” means the portions of the NC State Building Code that have typically been enforced by the City Inspections Department rather than other City or County departments. By way of example, without limitation, “Applicable Codes” do not include the Fire Prevention Code in the County, which has historically been enforced by the County Fire Marshall in the County; residential housing codes and/or minimum housing codes for existing residences, which, in the City, have been enforced by the Neighborhood Improvement Services Department; or general, periodic inspections for purposes of condemnation of residential and nonresidential structures.
- C. “Applicable Development Ordinances” means the local ordinances pertaining to new development that have typically been enforced by the City Inspections Department and which do not require specialized expertise outside the knowledge or training of the Department’s building inspectors. These include those portions of zoning and subdivision ordinances which are not enforced by the Durham Planning Department. Applicable Development Ordinances do not include, without limitation, the

sedimentation and erosion control ordinance, stormwater ordinances, floodplain determinations, determinations related to adequacy of septic fields or wastewater treatment facilities, and ordinances relating to public works such as streets and water and sewer, except where construction standards for such infrastructure have been specifically delegated to the Inspections Department for enforcement.

- D. "Board" means the Durham County Board of County Commissioners.
- E. "Council" means the City Council of the City of Durham.
- F. "Department" means the City-County Inspections Department created under Section III, A. of this Agreement.
- G. "Governing Bodies" means the City Council and the Board of County Commissioners.
- H. "Inspections Director" means the Director of the City-County Inspections Department, to whom reference is made in Section III, B.1.
- I. "NC State Building Code" means the most current edition of the North Carolina Building Codes, as adopted by the North Carolina Building Code Council (which includes, by reference, the North Carolina Building, Accessibility, Plumbing, Mechanical, Electrical, Fire Prevention, Fuel Gas, Energy, Existing Buildings, and Residential Codes, and the North Carolina Administration and Enforcement Requirements Code) as may be amended from time to time.

### **Section III. Administration.**

- A. The parties hereby reauthorize the continuation of a City-County Inspections Department which shall consist of the Inspections Director and such subordinate employees as the Council may provide in the Annual Budget. The Department is responsible for enforcing, in the territorial boundaries of the City of Durham and County of Durham, Applicable Codes within the NC State Building Code and Applicable Development Ordinances of the City and County. With regard to inspections of unsafe structures, in the County the Department shall provide inspections of individual structures specifically identified through complaints as potentially unsafe, shall make a determination as to condemnation in accordance with NCGS §153A-366 and shall notify the owner in accordance with NCGS § 153A-365.
- B. The Department shall provide such management, planning, regulatory, administrative, and support services as are necessary, or as are provided for under the NC State Building Code, to enforce Applicable Codes, and Applicable Development Ordinances. Such services shall be provided in a manner consistent with the Annual Budget.

1. The administrative head of the Department shall be the Inspections Director. The process for the appointment, evaluation and termination of the Inspections Director shall be as follows:
  - a. Appointment of the Inspections Director: The Inspections Director shall be appointed by the City Manager and County Manager, acting in concert. The Inspections Director shall have the minimum qualifications for an inspector as set forth in NCGS §153A-351.1.
  - b. Evaluation of the Inspections Director: The City Manager, County Manager, or designees shall meet at least annually with the Inspections Director to evaluate his/her performance, and such evaluation shall be reduced to writing. The performance evaluation system of the City shall apply to the extent it is applicable.
  - c. Termination of Inspections Director: The Inspections Director may be terminated by the City Manager and County Manager, acting in concert. The Inspections Director shall be considered an employee “at will” and is subject to the personnel policies of the City.
  - d. Failure to agree: The failure of the City Manager and County Manager to reach agreement with respect to a, b, or c above is grounds to terminate this Agreement as provided for in Section VI. C.
2. Pursuant to this Agreement, the Inspections Director shall perform the following duties:
  - a. Coordinate the activities and functions of the Department with other local and State agencies.
  - b. Represent the Department, the City Manager, the County Manager, or the Governing Bodies, before any agency of local government and/or State government with respect to:
    - i. Functions, analysis or recommendations of the Department;
    - ii. Other matters as may be directed to the Inspections Director by the City Manager and/or County Manager.
  - c. Perform professional duties as administrative head of the Department, including but not limited to the following:
    - i. Plan, organize, direct and evaluate the operations of the Department;
    - ii. Select and appoint personnel, and supervise directly, or through subordinate supervisors, the work of assigned personnel;
    - iii. Prepare an Annual Budget pursuant to Section V, submit the Annual Budget to the City Manager in such form and by such date as the City Manager may prescribe, and recommend fees for adoption by the Council and Board as necessary;
    - iv. Regularly advise, as needed, the City Manager, County Manager, or their designees concerning the activities of the Department;

- v. Meet and discuss with City and County officials concerning inspections issues and develop policy options in response to those issues;
- vi. Meet with City and County departments, other public agencies, individuals, and groups affected by inspections issues and activities;
- vii. Provide management, leadership, and oversight for all inspections activities of the Department.
- viii. Ensure that all inspections and activities provided for under this agreement are completed in a manner consistent with applicable law.

C. The personnel policies and procedures of the City, administered by the City Manager or designee, shall govern the Inspections Department. Such policies and procedures include, but are not limited to, those governing the following:

- 1. Employment screening and qualification, advancement, discipline and termination of employees;
- 2. Compensation and expenses;
- 3. Equal Opportunity/Equity Assurance.

#### **Section IV. Legal Representation and Liability.**

The respective attorney's office for each jurisdiction shall provide legal support and representation for the Inspections Department and its employees, with responsibility determined on the basis of the location of the property from which the legal action or need for legal advice arises. The City shall handle Claims regarding property located within the City, and the County shall have no responsibility or liability regarding such Claims. The County shall handle Claims regarding property located outside the City and within the unincorporated areas of Durham County, and the City shall have no responsibility or liability regarding such Claims. Under no circumstance shall the attorney's office for one jurisdiction be required to provide legal representation for the other jurisdiction. For the purpose of this section 'Claims' shall be defined as claims, appeals, costs, damages, losses, demands, liabilities, duties, and obligations. Employees shall be considered joint employees and the Inspections Department, a joint department, for the purpose of each jurisdiction's application of its respective policies regarding defense of employees, and those policies shall apply if an Inspections Department employee is sued for actions taken as an Inspections Department employee that are within the scope of his/her duties. Each jurisdiction shall provide, at its own expense, for the defense of employees consistent with the jurisdiction's adopted policies. If an action is brought that names as a defendant the jurisdiction that does not have responsibility under this Section, the jurisdiction with responsibility as identified in this Section shall cooperate through intervention, joinder, or other appropriate means, in allowing the dismissal of the jurisdiction that is not responsible as set forth herein. Such cooperation shall not waive any rights of the responsible jurisdiction to assert any immunities or other defenses it may have against the parties who allege injury as a result of the Inspections activity.

## **Section V. Financial.**

- A. The budget and financial procedures of the City shall be followed in carrying out this Agreement.
- B. Each year the City Manager and the County Manager shall meet to review the Annual Budget for the Department.
- C. Either the City or County may fund additional service(s) over and above those approved in the Annual Budget provided that such service(s) are generally consistent with the mission of the Inspections Department. When such additional service(s) are requested by either the City or County, and are performed for the benefit of the requesting government, then the requesting government shall pay the full expense associated with such additional service(s) and make such additional budgetary appropriations as are necessary for the performance of these services.
- D. Failure to adhere to financial responsibilities in Section V. A. through C. shall be grounds for Termination of this Agreement in accordance with Section VI. C.2., which termination need not occur in accordance with the provisions of Section VI.C.1.
- E. To the extent practicable, the expenses of the Inspections Department as approved in the Annual Budget shall be recovered through a schedule of fees for inspections-related services. The Council and the Board, as applicable, shall adopt such fees as are necessary to support the operations of the Inspections Department. The Director shall make recommendations for changes to the schedule of fees to the Governing Bodies from time to time as are necessary to sustain programs and services.
- F. All inspections-related fees shall be collected by the City and used in support of the Inspections Department. If fees, recommended by the Director, have been adopted by both Governing Bodies, Departmental budget deficits that occur if the fees collected do not pay the costs of the Inspections Department shall be the responsibility of the City. Any excess revenues from inspections-related fees shall be retained by the City and utilized for the direct and indirect costs for providing the services of the Department.
- G. On an annual basis, the County Finance Director and the City Finance Director, or their respective designees, shall meet to conduct a reconciliation with respect to the fees collected and received by the City during the preceding year pursuant to this Agreement.

## **Section VI. Term/Amendment/Termination.**

- A. The Term of this Agreement is five (5) years beginning July 1<sup>st</sup> 2015. Termination by either party during the term is allowed, however, effective at the beginning of the fiscal year after such notice is given, under the terms and conditions provided in VI.C. below. Notwithstanding the expiration of this Agreement as of June 30, 2020, if neither party has indicated the intent to amend, renew or terminate this Agreement, this Agreement shall continue after the contract expiration date indicated above until either party indicates in writing, through its respective Manager, that the Agreement is terminated pursuant to the termination provisions of this Agreement.
- B. This Agreement may be amended from time to time upon mutual consent of the Governing Bodies expressed in writing.
- C. Termination of this Agreement is subject to the following provisions:
  - 1. Either party may terminate this Agreement for any reason. In the event that termination occurs for reasons other than those specified in V.D. or III.B(1)(d), termination may only occur at the end of the fiscal year. In such event, notice to terminate must be given in writing to the other party on or before March 31st immediately preceding the proposed June 30th termination date.
  - 2. Should termination occur pursuant to Section V.D or III.B(1)(d), termination may be effective on 30 days' written notice to the other party, or at any other time thereafter.
  - 3. Termination shall not relieve either Governing Body of financial obligations incurred prior to termination.
- D. This Agreement shall constitute the entire understanding between the City and the County and shall supersede all prior understandings and agreements relating to the subject matter hereof.

[Remainder left blank, signature page to follow]

IN WITNESS WHEREOF, the City and County have authorized this Interlocal Agreement for the provision of Inspection Services to be executed and attested by their undersigned officers, to be effective from the date herein indicated.

ATTEST:

CITY OF DURHAM

\_\_\_\_\_  
D. Ann Gray, City Clerk

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Thomas J. Bonfield, City Manager

ATTEST:

COUNTY OF DURHAM

\_\_\_\_\_  
V. Michelle Parker-Evans, Clerk to the Board

\_\_\_\_\_  
Wendell Davis, County Manager